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**PATENT APPLICATION**

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of

Docket No: Q90189

Frederic BERTHELIN, et al.

Appln. No.: 10/549,501

Group Art Unit: 3754

Confirmation No.: 7745

Examiner: Unknown

Filed: September 14, 2005

For: CLOSURE DEVICE FOR A FLUID PRODUCT RESERVOIR

**SUBMISSION OF INTERNATIONAL PRELIMINARY  
EXAMINATION REPORT (IPER)**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450  
Sir:

For the Examiner's convenience, enclosed herewith is a copy of the English translation of the International Preliminary Examination Report (IPER). It is noted that the three references cited in the International Search Report were previously submitted to the U.S. Patent and Trademark Office with an Information Disclosure Statement on July 10, 2006, and are therefore not enclosed herewith.

Respectfully submitted,

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WASHINGTON OFFICE

**23373**

CUSTOMER NUMBER

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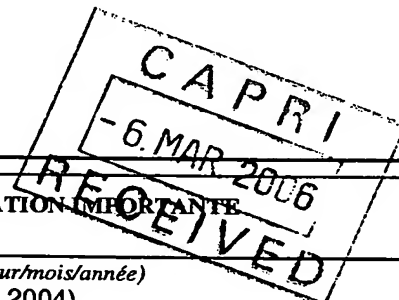
**PCT**

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DU TRAITE DE COOPERATION EN MATIERE DE BREVETS)

(règles 44bis.3.c) et 72.2 du PCT)

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CAPRI  
33, rue de Naples  
F-75008 Paris  
FRANCE



Date d'expédition (jour/mois/année) 02 mars 2006 (02.03.2006)	
Référence du dossier du déposant ou du mandataire SEGAL 2 B PCT	NOTIFICATION IMPORTANTE
Demande internationale n° PCT/FR2004/000581	Date du dépôt international (jour/mois/année) 11 mars 2004 (11.03.2004)
Déposant SEAQUIST GENERAL PLASTICS etc	

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Le Bureau international transmet ci-joint copie de la traduction en langue anglaise du rapport préliminaire international sur la brevetabilité (chapitre I).

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Il appartient au déposant d'établir la traduction en question et de la remettre directement à chaque office élu intéressé dans le délai applicable (règle 74.1). Voir le volume II du *Guide du déposant du PCT* pour de plus amples renseignements.

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**Translation**

**PATENT COOPERATION TREATY**

**PCT**

**INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY**  
(Chapter II of the Patent Cooperation Treaty)

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference <b>SEGAL 2 B PCT</b>	FOR FURTHER ACTION See Form PCT/IPEA/416	
International application No. <b>PCT/FR2004/000581</b>	International filing date (day/month/year) <b>11.03.2004</b>	Priority date (day/month/year) <b>14.03.2003</b>
International Patent Classification (IPC) or national classification and IPC		
Applicant <b>SEAQUIST GENERAL PLASTICS</b>		

<p>1. This report is the international preliminary examination report, established by this International Preliminary Examining Authority under Article 35 and transmitted to the applicant according to Article 36.</p> <p>2. This REPORT consists of a total of <u>5</u> sheets, including this cover sheet.</p> <p>3. This report is also accompanied by ANNEXES, comprising:</p> <p>a. <input type="checkbox"/> (sent to the applicant and to the International Bureau) a total of _____ sheets, as follows:</p> <p><input type="checkbox"/> sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications authorized by this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions).</p> <p><input type="checkbox"/> sheets which supersede earlier sheets, but which this Authority considers contain an amendment that goes beyond the disclosure in the international application as filed, as indicated in item 4 of Box No. I and the Supplemental Box.</p> <p>b. <input type="checkbox"/> (sent to the International Bureau only) a total of (indicate type and number of electronic carrier(s)) _____, containing a sequence listing and/or tables related thereto, in computer readable form only, as indicated in the Supplemental Box Relating to Sequence Listing (see Section 802 of the Administrative Instructions).</p>	
<p>4. This report contains indications relating to the following items:</p> <p><input checked="" type="checkbox"/> Box No. I Basis of the report</p> <p><input type="checkbox"/> Box No. II Priority</p> <p><input type="checkbox"/> Box No. III Non-establishment of opinion with regard to novelty, inventive step and industrial applicability</p> <p><input type="checkbox"/> Box No. IV Lack of unity of invention</p> <p><input checked="" type="checkbox"/> Box No. V Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement</p> <p><input type="checkbox"/> Box No. VI Certain documents cited</p> <p><input type="checkbox"/> Box No. VII Certain defects in the international application</p> <p><input type="checkbox"/> Box No. VIII Certain observations on the international application</p>	

Date of submission of the demand	Date of completion of this report
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/000581

Box No. I Basis of the report

1. With regard to the language, this report is based on the international application in the language in which it was filed, unless otherwise indicated under this item.
- ☐ This report is based on translations from the original language into the following language \_\_\_\_\_ which is the language of a translation furnished for the purposes of:
- ☐ international search (Rule 12.3 and 23.1(b))
- ☐ publication of the international application (Rule 12.4)
- ☐ international preliminary examination (Rule 55.2 and/or 55.3)
2. With regard to the elements of the international application, this report is based on (*replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report*):
- ☐ the international application as originally filed/furnished
- ☒ the description:
- pages 1-14 \_\_\_\_\_ as originally filed/furnished
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- pages\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the claims:
- nos. 1-13 \_\_\_\_\_ as originally filed/furnished
- nos.\* \_\_\_\_\_ as amended (together with any statement) under Article 19
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- nos.\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☒ the drawings:
- sheets 1/8-8/8 \_\_\_\_\_ as originally filed/furnished
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- sheets\* \_\_\_\_\_ received by this Authority on \_\_\_\_\_
- ☐ a sequence listing and/or any related table(s) – see Supplemental Box Relating to Sequence Listing.
3. ☐ The amendments have resulted in the cancellation of:
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_
4. ☐ This report has been established as if (some of) the amendments annexed to this report and listed below had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).
- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, nos. \_\_\_\_\_
- ☐ the drawings, sheets/figs \_\_\_\_\_
- ☐ the sequence listing (*specify*): \_\_\_\_\_
- ☐ any table(s) related to sequence listing (*specify*): \_\_\_\_\_

\* If item 4 applies, some or all of those sheets may be marked "superseded."

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/000581

**Box No. V** Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	1-13	YES
	Claims		NO
Inventive step (IS)	Claims	4-8	YES
	Claims	1-3, 9-13	NO
Industrial applicability (IA)	Claims	1-13	YES
	Claims		NO

## 2. Citations and explanations (Rule 70.7)

1. This report makes reference to the following documents:

D1: EP-A-0 763 482 (DAINIPPON PRINTING CO LTD), 19 March 1997

D2: DE 14 79 365 A (KUNSTSTOFF MASCHINEN AG), 19 June 1969

D3: EP-A-1 247 749 (ELSAESSER VERPACKUNGEN AG; MENSCHEN GEORG & CO KG (DE); ASTEPO SRL), 9 October 2002

## 2. INDEPENDENT CLAIM

The present application does not meet the requirements of PCT Article 33(1) because the subject matter of claim 1 does not involve an inventive step (PCT Article 33(3)).

2.1 Document D1 is considered to constitute the prior art closest to the subject matter of claim 1 and describes (see page 6, lines 8-28; figures 1, 15, 16A, 16B)) a closing device having all the technical features of the preamble of claim 1 (the device comprises a fastening element (12), a

## INTERNATIONAL PRELIMINARY REPORT ON PATENTABILITY

International application No.

PCT/FR2004/000581

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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distribution duct (13) and a closure element (20)).

- 2.2 The subject matter of claim 1 differs from that known device in that the closure element comprises a sealable part which, before it is sealed, leaves open the distribution opening and, after it is sealed, tightly seals the distribution opening.
- 2.3 The present invention can therefore be considered to address the problem of making it possible to use the closure device for filling purposes.
- 2.4 Document D2 describes (see page 6, lines 14-24; figures 5-7) a device having a closure element (102) with a sealable portion (105) which, before it is sealed, leaves open the distribution opening and, after it is sealed, tightly seals the distribution opening. Consequently, the solution proposed in the characterising part of claim 1 has already been used for the same purpose in an analogous closure device. Even if D2 teaches the production of a container and of a closure element in a single piece by blow-moulding, whereas D1 describes the production of a closure device by injection-moulding or moulding, the problem addressed and the solution are the same in D1 and D2 and therefore do not depend on the production technique by blow-moulding or by injection-moulding or moulding. Consequently, a person skilled in the art would combine the features described in documents D1 and D2 for solving the

Box No. V	Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
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stated problem, without being inventive.

3. DEPENDENT CLAIMS

3.1 Claims 2, 3 and 9-13 do not contain any features which, in combination with the features of claim 1, meet the requirements of PCT Article 33(2) and 33(3) for inventive step; see documents D1 and D2, and the corresponding passages cited in the search report.

3.2 Document D2 describes a closure element with a sealable portion (see point 2 above). However, that sealable portion does not comprise a fixed element and a sealing cap to be fixed in a permanent manner to the fixed element. Moreover, document D3 shows (see figures 1, 2) a closure device having a fixed element (2, 5) and a cap (6). The cap (6), however, is not designed to be sealed in a permanent manner to the fixed element (2, 5), as described in claim 4.

Consequently, the combination of features in claim 4 is not found in the prior art, nor can it be obviously derived therefrom. The subject matter of claim 4 meets the novelty requirement, involves an inventive step and is industrially applicable.

3.3 Claims 5-8, which are dependent on claim 4, and claims 9-13, provided they are dependent on claim 4, thus also meet the novelty requirement, involve an inventive step and are industrially applicable.